

STATE OF WISCONSIN

Senate Journal

Seventy-Seventh Session

WEDNESDAY, July 14, 1965.

9:00 o'clock A.M.

The senate met.

The president in the chair.

Prayer was offered by the Rabbi Manfred Swarsensky.

The roll was called and the following senators answered to their names:

Senators Benson, Bice, Busby, Carr, Christopherson, Dempsey, Dorman, Hansen, Hollander, Kendziorski, Keppler, Knowles, LaFave, Leonard, Leverich, Lorge, Lourigan, McParland, Meunier, Miller, Panzer, Rasmusen, Risser, Roseleip, Schreiber, Schuele, Smith, Sussman, Thompson and Warren—30.

Absent—Senators Draheim and Krueger—2.

Absent with leave—Senator Zaborski—1.

BILLS INTRODUCED

Senate Bill 566

Relating to traffic regulations.

By Senators Keppler, Schreiber, McParland and Kendziorski; co-sponsored by Assemblymen Belting and Steiger, by request of the Traffic Committee of the Board of County Judges.

Read first time.

To committee on Highways.

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PETITIONS AND COMMUNICATIONS

Read and referred as follows :

Senate Petition 64

By Senator Benson. To joint committee on Finance.

Senate Petition 65

By Senator Kendzierski. To joint committee on Finance.

Senate Petition 66

By Senator McParland. To joint committee on Finance.

Senate Petition 67

By Senator Risser. To joint committee on Finance.

Senate Petition 68

By Senator Risser. To joint committee on Finance.

Senate Petition 69

By Senator Risser. To joint committee on Finance.

Senate Petition 70

By Senator Risser. To joint committee on Finance.

Senate Petition 71

By Senator Risser. To joint committee on Finance.

Senate Petition 72

By Senator Kendzierski. To committee on Governmental and Veterans' Affairs.

The State of Wisconsin
Office of Attorney General
Madison

The Honorable, The Senate
State Capitol
Madison, Wisconsin

Gentlemen: By Senate Resolution 27 you have requested an opinion as to the constitutionality of a property tax exemption as proposed by Senate Bill No. 64. That Bill would create a new subsection of the Statutes, 70.11 (10r), the effect of which would be to exempt from general property taxes:

"Property owned and used by any Wisconsin Lions International club for meeting purposes."

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Amendment 1, S., which has not been acted upon, would strike the last three words of the Bill.

Perhaps the best statement by the Wisconsin Supreme Court upon the subject of special tax exemptions is that contained in *Lawrence University v. Outagamie County* (1912), 150 Wis. 244, 136 N. W. 619. That case involved the validity of a provision of Chapter 116, Laws of 1901, which attempted to exempt from property taxes all real and personal property held by the Board of Trustees of Lawrence University for educational purposes and for endowment of the institution. A general statute in effect at that time accorded a much more limited property tax exemption to chartered colleges or universities.

The opinion in the *Lawrence University* case conceded that a law should not be declared unconstitutional unless its invalidity is clear, and that the Court should be able to point out a particular part of the constitution which is violated. The opinion further recognized that in the absence of constitutional restraint the Legislature has "full power to exempt any person or corporation or class of property from taxation according to its views of public policy or expediency." 150 Wis. at 246. Then, as now, section 1 of Article VIII of the State Constitution provided that the rule of taxation should be uniform and that taxes should be levied upon such property as the Legislature should prescribe. This requirement of uniformity, the Court held, was applicable to tax exemptions as well as to the rate or percentage of tax.

The opinion in the *Lawrence University* case, at 150 Wis. 247, quoted with approval the following language from an earlier opinion:

"Under sec. 1, art. VIII, Const., providing that the rule of taxation shall be uniform; and under the equality in the protection of the laws guaranteed by sec. 1, art. I, Const., and the XIVth amendment to the federal constitution, a classification of persons or property liable to or exempt from taxation does not violate the required rule of uniformity and equality, provided such classification be founded on real differences, affording rational grounds of distinction, and the exemption be reasonable in amount.' "

Having recognized the necessity for classification in order to comply with the rule of uniformity, the opinion then states, at 150 Wis. 249:

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"When we are presented with a case in which the exemption is arbitrary and in which other persons of the same class owning property of the same general description are awarded exemptions of a lesser amount, the situation is one in which the rule of uniformity is violated. It is impossible under the most liberal rule of classification to sustain it as a classification, because the class is already made and the situation is one in which a different amount of exemptions is allowed to one person of the class than to others of the same class. * * *"

Next, the opinion considered the contention of the University that numerous other statutes had exempted property of designated corporations. The Court pointed out that a statute granting favored tax treatment to a named association or corporation could be valid, if there were no other members of the same class. The opinion states, at 150 Wis. 251:

"* * * If there were no other members of that class, or if property used for the purposes of the Hesperian Society constituted a class; or, in other words, was unique and distinct in its uses or purposes from any other property in the state of Wisconsin, the act would be of undoubted validity and no precedent for the interpretation sought to be placed by appellant upon the section of the constitution in question. * * *"

As pointed out in 40 OAG 419, a valid classification must meet certain tests, one of which is that the classification must be based upon substantial distinctions which make one class really different from another. I know of no circumstances, nor can I conceive of any, which would warrant placing the Wisconsin Lions International clubs in a tax-exempt classification separate and apart from other service clubs. I am, therefore, of the opinion that passage of this Bill will not result in a constitutional statute.

Very truly yours,

BRONSON C. La FOLLETTE,

July 13, 1965.

Attorney General.

CAPTION: Senate Bill 64, which proposes to accord property tax exemption to property owned and used by a Wisconsin Lions International club for meeting purposes

would not create a valid statute, because it would be violative of the uniformity requirement of section 1, Article VIII, Wisconsin Constitution.

The reading at length of the foregoing opinion of the Attorney General was dispensed with and the *caption* only was read by the clerk, upon motion of Senator Leonard, with unanimous consent.

SPECIAL COMMITTEE REPORT

Report of Joint Survey Committee on Retirement Systems on Amendment 1, S., to Substitute Amendment 2, S., to Senate Bill 170

Public Policy Involved

Amendment 1, S. to substitute amendment 2, S. to the bill does serve to eliminate some of the objectionable features of the substitute amendment, but only in part; changes are proposed with respect to the State Teachers Retirement System, but not as to the Milwaukee Public School Teachers' Annuity and Retirement Fund. Whether this was intended or not, the results cannot be justified on any reasonable basis. This amendment fails completely to deal with most of the fundamental objections raised by this committee in its earlier report.

Recommendation

As noted previously it is the opinion of this committee that passage of Senate Bill 170 would not be in the best public interest, but that if the bill should be passed notwithstanding the objections of this committee, substitute amendment 2, S. should be adopted. It is the further opinion of this committee that while amendment 1, S. to substitute amendment 2, S. is grossly inadequate, the bill will be less objectionable (in terms of potential costs) if such amendment is adopted than if it is rejected.

(Note: It should be anticipated that an amendment, similar in effect to amendment 1, S. to substitute amendment 2, S. to the bill, but relating to the Milwaukee Public School Teachers' Annuity and Retirement Fund, will be introduced. Such an amendment, if introduced and adopted, would serve to establish uniformity of treatment as between members

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of the State Teachers Retirement System and the Milwaukee Public School Teachers' Annuity and Retirement Fund, and would thus be considered desirable. Such amendment, however, would not serve to overcome the basic objections of this committee to the bill or to the substitute amendment 2, S.)

Respectfully submitted,

JOINT SURVEY COMMITTEE ON RETIREMENT SYSTEMS

Senator Reuben LaFave, Chairman.

Assemblyman Vincent R. Mathews,
Vice-Chairman.

Senate Bill 170

To committee on Education.

MESSAGE FROM THE ASSEMBLY

By James P. Buckley, chief clerk thereof.

Mr. President:

I am directed to inform you that the assembly has adopted and asks concurrence in

Assembly Joint Resolution 112, and

Passed and asks concurrence in

Assembly Bill 67,

Assembly Bill 614,

Assembly Bill 739,

Assembly Bill 847,

Assembly Bill 848 and

Concurred in

Senate Joint Resolution 26,

Senate Bill 279,

Senate Bill 280,

Senate Bill 281,

Senate Bill 337,

Senate Bill 383 and has

Nonconcurred in

Amendment No. 1, S. to Assembly Bill 68

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Upon motion of Senator Knowles, with unanimous consent, the senate recessed until 9:45 o'clock this morning.

RECESS

9:45 o'clock A.M.

The senate was called to order by the president pro tempore.

ASSEMBLY MESSAGE CONSIDERED

Assembly Joint Resolution 112

Relating to a conference committee on amendment 1, S., 3, S. and 5, S. to Assembly Bill 903, and suspending a portion of Joint Rule 2.

Was read.

The joint resolution was considered at this time, upon motion of Senator Busby, with unanimous consent.

Senator Busby rose to a point of order that as Joint Rule 2 requires that a member of a conference committee shall have supported the position of the body. Joint Resolution 112, A. requires the conference committee of six members to be equally divided between members of the minority and majority party. There is thus a clear conflict between the rule and the resolution, as no members of the minority party supported the Senate position on Assembly Bill 903. The question therefore raised by the point of order is, which takes precedent, the joint resolution requiring appointment of minority party members or the rule which due to their position would prohibit them from serving on the conference committee because they did not vote with the majority position of the Senate?

The president pro tempore ruled that it appears the intent of Assembly Joint Resolution 112 is to make control of the Committee of Conference equal of both parties from each house and thus requires a suspension of Joint Rule 2.

Therefore, under Joint Rule 15 if Assembly Joint Resolution 112 receives a majority of a $\frac{2}{3}$ vote in each house the rule is suspended for creation of the committee therein established.

SPECIAL ORDER

Senator Knowles called the attention of the senate to the Special Order which had been fixed for 10:00 o'clock this morning and to the fact that that hour had arrived.

The senate proceeded to consider

Senate Bill 48

Which had been made the Special Order.

Senate Bill 48

Relating to new 4-year college institutions and making an appropriation.

The question was: Shall amendment No. 1, S. to amendment No. 1, A. be rejected?

The ayes and noes were demanded and the vote was: ayes, 13; noes, 15; paired, 2; absent or not voting, 3; as follows:

Ayes—Senators Carr, Dorman, Keppler, LaFave, Lorge, Lourigan, Meunier, Panzer, Risser, Smith, Sussman, Thompson and Warren—13.

Noes—Senators Benson, Bice, Christopherson, Dempsey, Hansen, Hollander, Kendziorski, Knowles, Leonard, Leverich, McParland, Rasmusen, Roseleip, Schreiber and Schuele—15.

Absent or not voting—Senators Draheim, Krueger and Zaborski—3.

Paired—Senator Busby for rejection, Senator Miller against—2.

So the question was decided in the negative.

Senate Bill 48

The question was: Shall amendment No. 1, S. to amendment No. 1, A. be adopted?

The ayes and noes were demanded and the vote was: ayes, 16; noes, 12; paired, 2; absent or not voting, 3; as follows:

Ayes—Senators Benson, Bice, Christopherson, Dempsey, Draheim, Hansen, Hollander, Kendziorski, Knowles, Leonard, Leverich, McParland, Panzer, Roseleip, Schreiber and Schuele—16.

Noes—Senators Carr, Dorman, Keppler, LaFave, Lorge, Lourigan, Meunier, Risser, Smith, Sussman, Thompson and Warren—12.

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Absent or not voting—Krueger, Rasmusen and Zaborski
—3.

Paired—Senator Miller for adoption, Senator Busby
against—2.

So amendment No. 1, S. to amendment No. 1, A. was
adopted.

Amendment No. 1, A., as amended, was concurred in.
Ordered immediately messaged to the assembly.

Upon motion of Senator Keppler, with unanimous con-
sent, the senate returned to the 3rd order of business.

INTRODUCTION OF AMENDMENTS

Amendment No. 1, S. to **Senate Bill 506** was offered by
Senator Keppler.

Amendment No. 1, S. to **Assembly Bill 303** was offered by
Senator Busby, by request of Milwaukee County.

Upon motion of Senator Hollander, with unanimous con-
sent, the senate returned to the 7th order of business.

COMMITTEE REPORT

The joint committee on Finance reports and recommends:

Senate Bill 135

Adoption of amendment 1, S.; Ayes, 10; Noes, 1; adop-
tion of amendment 2, S.; Ayes, 9; Noes, 2 and passage as
amended; Ayes, 9; Noes, 2.

Senate Bill 221

Rejection of amendment 1, S.; Ayes, 10; Noes, 0; adop-
tion of amendment 1, S. to substitute amendment 1, S.;
Ayes, 10; Noes, 0; adoption of substitute amendment 1, S.
as amended; Ayes, 11; Noes, 0 and passage as amended;
Ayes, 10; Noes, 0.

Senate Bill 252

Adoption of amendment 1, S.; Ayes, 11; Noes, 3 and pas-
sage as amended; Ayes, 11; Noes, 3.

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Senate Bill 292

Adoption of amendment 1, S.; Ayes, 14; Noes, 0 and passage as amended; Ayes, 14; Noes, 0.

Senate Bill 398

Adoption of amendment 1, S.; Ayes, 13; Noes, 1 and passage as amended; Ayes, 7; Noes, 6; Not Voting, 1.

WALTER G. HOLLANDER,
Senate Chairman.

The reading at length of the foregoing report was dispensed with, upon motion of Senator Knowles.

Upon motion of Senator Leverich, with unanimous consent, the senate returned to the 11th order of business.

MOTIONS

Senate Bill 169

On the calendar of Tuesday, July 13th was placed on the calendar of Wednesday, June 30th, upon motion of Senator Smith.

Senate Bill 434

Was taken from the calendar of Thursday, July 8th and referred to the joint committee on Finance, upon motion of Senator Leverich, with unanimous consent.

Senate Bill 464

Was taken from the calendar of Thursday, July 8th and referred to the committee on Governmental and Veterans' Affairs, upon motion of Senator Schuele, with unanimous consent.

LEAVE OF ABSENCE

Senator Roseleip was granted a leave of absence for the balance of this week's session, with unanimous consent.

Upon motion of Senator Knowles, with unanimous consent, the senate recessed until 3:30 o'clock this afternoon.

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RECESS

3:30 o'clock P.M.

The senate was called to order by the president pro tempore.

Upon motion of Senator Carr, with unanimous consent, the senate returned to the 7th order of business.

COMMITTEE REPORT

The committee on Education reports and recommends:

Senate Bill 297

Passage; Ayes, 4; Noes, 1.

Senate Bill 513

Adoption of substitute amendment No. 1, S.; Ayes, 5; Noes, 0 and passage as amended; Ayes, 5; Noes, 0.

Senate Bill 523

Passage; Ayes, 5; Noes, 0.

Assembly Bill 346

Concurrence; Ayes, 5; Noes, 0.

PETER P. CARR,
Chairman.

Senate Bill 297,

Senate Bill 513 and

Senate Bill 523

Were taken from the calendar of Friday, July 16th and referred to the joint committee on Finance, upon motion of Senator Carr, with unanimous consent.

Upon motion of Senator Rasmusen, with unanimous consent, the senate returned to the 11th order of business.

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MOTIONS

Senate Bill 314

Was taken from the calendar of Wednesday, July 7th and made a Special Order for 9:00 o'clock tomorrow morning, upon motion of Senator Rasmusen, with unanimous consent.

Upon motion of Senator Knowles, with unanimous consent, the senate recessed until 3:50 o'clock this afternoon.

RECESS

3:50 o'clock P.M.

The senate was called to order by the president pro tempore.

ASSEMBLY MESSAGE CONSIDERED, CONTINUED

Assembly Joint Resolution 112

The joint resolution was laid aside temporarily, upon motion of Senator Knowles, with unanimous consent.

Assembly Bill 67

Read first time.

The bill was referred to the calendar, upon motion of Senator Leonard, with unanimous consent.

Assembly Bill 614

Read first time.

To committee on Governmental and Veterans' Affairs.

Assembly Bill 739

Read first time.

The bill was referred to the calendar, upon motion of Senator Leonard, with unanimous consent.

Assembly Bill 847

Read first time.

Senator Meunier asked unanimous consent that the bill be considered at this time.

Senator Risser objected.

The bill was laid aside temporarily, upon motion of Senator Meunier, with unanimous consent.

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Assembly Bill 848

Read first time.

To committee on Governmental and Veterans' Affairs.

Assembly Bill 68

Was referred to the calendar.

Upon motion of Senator Lorge, with unanimous consent, the senate returned to the 11th order of business.

MOTIONS

Senator Lorge asked unanimous consent that the appointment by the Governor of Robert E. Stahl of Kenosha, a member of the Wisconsin Real Estate Brokers' Board, to succeed Howard J. Meister, for the term ending July 12, 1971, be taken from the calendar of Thursday, July 15th and considered at this time.

Senator Risser objected.

Senator Lorge asked unanimous consent that the appointment by the Governor of Robert E. Stahl be made a Special Order for 10:00 o'clock tomorrow morning.

Senator Schreiber objected.

Senator Lorge moved that the appointment by the Governor of Robert E. Stahl be made a Special Order for 10:00 o'clock tomorrow morning.

The motion by Senator Lorge was laid aside temporarily, upon motion of Senator Risser, with unanimous consent.

Senate Bill 92

Senator Schreiber asked unanimous consent that the bill be recalled from the joint committee on Finance and made a Special Order for 9:01 o'clock tomorrow morning.

Senator Dempsey objected.

Senator Schreiber moved that the bill be recalled from the joint committee on Finance and made a Special Order for 9:01 o'clock tomorrow morning.

Senator Hollander rose to a point of order that this motion would require a two-thirds vote.

The president pro tempore ruled the point of order well taken.

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Senate Bill 92

Relating to testing infants for phenylketonuria and other causes of mental retardation, granting rule-making authority and making an appropriation.

Senator Schreiber moved that the bill be recalled from the joint committee on Finance and referred to the calendar.

The ayes and noes were demanded and the vote was: ayes, 18; noes, 9; absent or not voting, 6; as follows:

Ayes—Senators Benson, Bice, Busby, Carr, Christopher-son, Dorman, Hansen, Kendziorski, Lorge, Lourigan, McParland, Panzer, Rasmusen, Risser, Schreiber, Schuele, Sussman and Thompson—18.

Noes—Senators Dempsey, Hollander, Keppler, Knowles, LaFave, Leonard, Leverich, Smith and Warren—9.

Absent or not voting—Senators Draheim, Krueger, Meunier, Miller, Roseleip and Zaborski—6.

So the motion prevailed.

Upon motion of Senator Knowles, with unanimous consent, the senate recessed until 5:20 o'clock this afternoon.

RECESS

5:20 o'clock P.M.

The senate was called to order by the president pro tempore.

Assembly Bill 847

Senator Knowles asked unanimous consent that the bill which had been laid aside temporarily earlier be considered at this time.

Senator Risser objected.

The bill was made a Special Order for 9:01 o'clock tomorrow morning, upon motion of Senator Knowles, with unanimous consent.

Assembly Joint Resolution 112

Which had been laid aside temporarily earlier this afternoon was considered at this time, upon motion of Senator Knowles, with unanimous consent.

Amendment No. 1, S. was offered by Senator Kendzior-ski.

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Senator Knowles moved that amendment No. 1, S. be rejected.

The motion prevailed and amendment No. 1, S. was rejected.

Amendment No. 2, S was offered by Senator McParland.

Assembly Joint Resolution 112

Senator Hollander moved that amendment No. 2, S. be rejected.

The ayes and noes were demanded and the vote was: ayes, 20; noes, 8; absent or not voting, 5; as follows:

Ayes—Senators Bice, Busby, Carr, Christopherson, Dempsey, Dorman, Hansen, Hollander, Knowles, LaFave, Leonard, Leverich, Meunier, Panzer, Rasmusen, Risser, Schreiber, Smith, Thompson and Warren—20.

Noes—Senators Benson, Kendziorski, Keppler, Lorge, Lourigan, McParland, Schuele and Sussman—8.

Absent or not voting—Senators Draheim, Krueger, Miller, Roseleip and Zaborski—5.

So the motion prevailed.

Amendment No. 3, S. was offered by Senators Knowles and Leonard.

Amendment 3, S., to Assembly Joint Resolution 112

Amend the joint resolution, as follows:

Delete lines 6 to 8 and substitute "to the normal manner of appointing a committee on conference, and the procedure on receiving the conference committee's report, be suspended and that, in lieu thereof, the majority and minority leaders of the senate and assembly each appoint 3 members to serve on such conference committee; and be it further

Resolved, That the conference committee established pursuant to this resolution report to the assembly no later than 10 a.m. on Friday, July 23, 1965; and be it further

Resolved, That, should the work of the conference committee appointed pursuant to this resolution fail to resolve the disagreement between the 2 houses, the assembly shall have forfeited none of its prerogatives under the joint rules and under the rules of the assembly with respect to further action on **Assembly Bill 903** and may, should it elect to do so, participate in a regular conference committee established pursuant to the procedure provided by Joint Rule 2".

Was read.

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Amendment No. 1, S. to amendment No. 3, S. was offered by Senator Lorge.

Amendment 1, S. to amendment 3, S. to Assembly Joint Resolution 112

Amend the amendment 3, S., as follows:

In line 6, before the semicolon, insert "with the approval of their respective caucus members assembled for that purpose".

Was read.

Amendment No. 1, S. to amendment No. 3, S. was adopted.

Amendment No. 3, S. was adopted.

Assembly Joint Resolution 112

Relating to a conference committee on amendment 1, S., 3, S. and 5, S. to Assembly Bill 903, and suspending a portion of Joint Rule 2.

The question was: Shall the joint resolution, as amended, be concurred in?

The ayes and noes were required and the vote was: ayes, 23; noes, 5; absent or not voting, 5; as follows:

Ayes—Senators Benson, Bice, Busby, Carr, Christopher-son, Dorman, Hansen, Hollander, Kendzierski, Knowles, LaFave, Leonard, Leverich, McParland, Meunier, Panzer, Rasmussen, Risser, Schreiber, Smith, Sussman, Thompson and Warren—23.

Noes—Senators Dempsey, Keppler, Lorge, Lourigan and Schuele—5.

Absent or not voting—Senators Draheim, Krueger, Miller, Roseleip and Zaborski—5.

So the joint resolution, as amended, was concurred in.

Ordered immediately messaged to the assembly.

Upon motion of Senator Smith, with unanimous consent, the senate returned to the 3rd order of business.

INTRODUCTION OF AMENDMENTS

Amendment No. 1, S. to Assembly Bill 268 was offered by Senator Thompson.

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Substitute amendment No. 1, S. to **Senate Bill 334** was offered by Senator Christopherson.

Amendment No. 1, S. to **Senate Bill 428** was offered by Senator Leonard.

Amendment No. 2, S. to **Senate Bill 464** was offered by Senator Sussman.

Substitute amendment No. 1, S. to **Assembly Bill 570** was offered by Senator Smith, by request of the Wisconsin Food and Tobacco Institute.

ANNOUNCEMENT

Senator Risser announced to the senate that Ambassador Adlai E. Stevenson died today.

Upon motion of Senator Risser, with unanimous consent, the senate resolved to adjourn today out of respect to the memory of Mr. Stevenson.

GUESTS INTRODUCED

Senator Meunier introduced to the senate **Mr. and Mrs. James Riedy, Edmund Riedy, and Emily Bellin**, of Casco, Wisconsin.

Senator Knowles introduced to the senate **Mr. Charles Welsh, and Mr. Donald Roberts**, of Prescott, Wisconsin.

Edwin Babcock, town assessor of the Town of Angelo, Monroe County, Wisconsin, was introduced to the senate by Senator Leverich.

Senator Benson introduced to the senate **Mr. Joseph Hrouda**, of the Town of Caledonia, in Racine County, Wisconsin.

Senator Lorge introduced to the senate **Mr. James Nolan**, of Marion, Wisconsin.

Upon motion of Senator Knowles, with unanimous consent, the senate adjourned until 9:30 o'clock Thursday morning, July 15, 1965, and rose in a moment of silent prayer out of respect to the memory of Adlai E. Stevenson.

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CHIEF CLERK'S REPORT

The chief clerk records:

Senate Joint Resolution 28 and

Senate Joint Resolution 75

Were correctly enrolled on Wednesday, July 14, 1965.